



## 1997 SENATE BILL 444

February 5, 1998 - Introduced by Senator RUDE, cosponsored by Representative JOHNSRUD, by request of Kickapoo Reserve Management Board. Referred to Committee on Insurance, Tourism and Rural Affairs.

1     **AN ACT to amend** 15.445 (2) (b) 2., 15.445 (2) (d) 3., 15.445 (2) (e), 20.923 (6) (L),  
2             23.095 (1) (a), 23.095 (3) (b), 23.095 (3) (c), 23.095 (3) (d) 1., 23.095 (3) (d) 2.,  
3             41.41 (5) (a), 41.41 (5) (e), 41.41 (7) (a) and 230.08 (2) (yn); and **to create** 15.445  
4             (2) (b) 4., 15.445 (2) (b) 5., 15.445 (2) (d) 2m., 23.095 (2m), 23.095 (3) (d) 3. and  
5             41.41 (7m) of the statutes; **relating to:** the Kickapoo valley reserve, the  
6             Kickapoo reserve management board and providing a penalty.

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### *Analysis by the Legislative Reference Bureau*

Under current law, the Kickapoo valley reserve consists of land adjacent to the Kickapoo River that is to be acquired from the federal government, owned by the state and managed by the Kickapoo reserve management board (board) under the direction of the department of tourism to preserve and enhance the land's unique environmental, scenic and cultural features. The board has an executive secretary, who is appointed by the board outside the classified service, and 9 members, 6 of whom are Kickapoo River watershed residents recommended for membership by governing bodies of municipalities and school boards in the area. Of the remaining 3 members, who are not residents of the watershed, one is an advocate for the environment, one has a demonstrated interest in education and one represents recreation and tourism interests.

This bill adds 2 members to the board, who are appointed from individuals recommended by the Ho-Chunk Nation. One of the individuals must be a resident

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of the Kickapoo River watershed and the other individual must have an interest and knowledge of the cultural resources in the Kickapoo River watershed. The bill changes the designation of the executive secretary of the board to the executive director of the board. The bill also provides that the board may assume interim management of the land that is to be acquired from the federal government for the Kickapoo valley reserve before the land is actually transferred to the state, if the federal government approves of the interim management.

Current law prohibits any physical act that destroys, molests, defaces or removes a natural resource or archaeological feature and any act that unreasonably wastes a natural resource or archaeological feature. Under the bill, the requirement that the act be unreasonable is expanded to cover acts that destroy, molest, deface or remove a natural resource or archaeological feature.

Under current law, the penalty for committing such an act is a forfeiture of up to \$100. Fines in higher amounts are imposed if the act is committed on state-owned lands that are managed by the department of natural resources (DNR) or on land in a state natural area. If the violation involves intentionally damaging or attempting to damage an archaeological feature on lands that are managed by DNR or on land in a state natural area, the person committing the violation must be fined up to \$10,000 or imprisoned for up to 9 months or both. The bill provides the same increased penalties for violations that are committed on land in the Kickapoo valley reserve. If the violation involves intentionally damaging or attempting to damage an archaeological feature in the Kickapoo valley reserve in the pursuit of commercial gain, the person committing the violation must, in addition to the fine or imprisonment or both, be fined 2 times the gross value gained or gross loss caused, whichever is greater, plus court costs and the costs of investigation and prosecution.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 15.445 (2) (b) 2. of the statutes is amended to read:

2           15.445 (2) (b) 2. Two members who are residents of that portion of the Kickapoo  
3 river River watershed, as determined by the department of natural resources, that  
4 lies outside of the area specified in subd. 1.

5           **SECTION 2.** 15.445 (2) (b) 4. of the statutes is created to read:

6           15.445 (2) (b) 4. One member who is a resident of the area composed of the areas  
7 specified in subds. 1. and 2.

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1           **SECTION 3.** 15.445 (2) (b) 5. of the statutes is created to read:

2           15.445 (2) (b) 5. One member who has an interest in and knowledge of the  
3 cultural resources within the Kickapoo River watershed.

4           **SECTION 4.** 15.445 (2) (d) 2m. of the statutes is created to read:

5           15.445 (2) (d) 2m. The governor shall appoint the members specified in par. (b)  
6 4. and 5. from a list of individuals recommended by the Ho-Chunk Nation.

7           **SECTION 5.** 15.445 (2) (d) 3. of the statutes is amended to read:

8           15.445 (2) (d) 3. Each municipality or school district specified in this paragraph  
9 may recommend no more than 3 members. The Ho-Chunk Nation may recommend  
10 no more than 3 individuals for the membership position under par. (b) 4. and no more  
11 than 3 individuals for the membership position under par. (b) 5. At the request of  
12 the governor, a municipality ~~or~~ a school district or the Ho-Chunk Nation shall  
13 recommend additional members if an individual who is recommended ~~by the~~  
14 ~~municipality or school district~~ declines to serve.

15           **SECTION 6.** 15.445 (2) (e) of the statutes is amended to read:

16           15.445 (2) (e) *Liaison representatives.* The secretary of agriculture, trade and  
17 consumer protection, the secretary of natural resources, the secretary of  
18 transportation, the secretary of commerce, the secretary of administration, the  
19 director of the state historical society and the chancellor of the university of  
20 Wisconsin-extension, or their designees, shall serve as liaison representatives to the  
21 board. ~~The board shall request the Winnebago tribal council to appoint a liaison~~  
22 ~~representative to the board.~~ The board may request any other Indian tribal council  
23 which federally recognized American Indian tribe or band in this state, other than  
24 the Ho-Chunk Nation, that expresses an interest in the governance of the Kickapoo

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1 valley reserve to appoint a liaison representative to the board. The liaison  
2 representatives are not board members and have no voting power.

3 **SECTION 7.** 20.923 (6) (L) of the statutes is amended to read:

4 20.923 (6) (L) Tourism, department of; Kickapoo reserve management board:  
5 executive ~~secretary~~ director and staff.

6 **SECTION 8.** 23.095 (1) (a) of the statutes is amended to read:

7 23.095 (1) (a) "Damage" means to commit a physical act that unreasonably  
8 destroys, molests, defaces, removes or ~~unreasonably~~ wastes.

9 **SECTION 9.** 23.095 (2m) of the statutes is created to read:

10 23.095 (2m) PROHIBITION ON LAND IN KICKAPOO VALLEY RESERVE. No person may  
11 damage or attempt to damage any natural resource or archaeological feature located  
12 in the Kickapoo valley reserve under s. 41.41 (2).

13 **SECTION 10.** 23.095 (3) (b) of the statutes is amended to read:

14 23.095 (3) (b) Except as provided in pars. (c) and (d), any person who violates  
15 sub. (1m) or (2m) shall forfeit not more than \$200.

16 **SECTION 11.** 23.095 (3) (c) of the statutes is amended to read:

17 23.095 (3) (c) If a person violates sub. (1m) or (2m) and the violation involves  
18 damaging or attempting to damage a natural resource and the violation occurs on  
19 land in a state natural area, as defined in s. 23.27 (1) (h), the person shall forfeit not  
20 more than \$2,000.

21 **SECTION 12.** 23.095 (3) (d) 1. of the statutes is amended to read:

22 23.095 (3) (d) 1. If Except as provided in subds. 2. and 3., if a person violates  
23 sub. (1m) or (2m) and the violation involves damaging or attempting to damage an  
24 archaeological feature, the person shall forfeit not less than \$100 nor more than  
25 \$10,000.

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1           **SECTION 13.** 23.095 (3) (d) 2. of the statutes is amended to read:

2           23.095 (3) (d) 2. If Except as provided in subd. 3., if a person violates sub. (1m)  
3           or (2m) and the violation involves intentionally damaging or intentionally  
4           attempting to damage an archaeological feature, the person shall be fined not more  
5           than \$10,000 or imprisoned for not more than 9 months or both.

6           **SECTION 14.** 23.095 (3) (d) 3. of the statutes is created to read:

7           23.095 (3) (d) 3. If a person violates sub. (2m) and the violation involves  
8           intentionally damaging or attempting to damage an archaeological feature in the  
9           pursuit of commercial gain, the person shall, in addition to the penalty imposed  
10          under subd. 2., be fined an amount 2 times the gross value gained or the gross loss  
11          caused by the violation, whichever is the greater, plus court costs and the costs of  
12          investigation and prosecution, reasonably incurred.

13          **SECTION 15.** 41.41 (5) (a) of the statutes is amended to read:

14          41.41 (5) (a) Appoint an executive ~~secretary~~ director outside the classified  
15          service.

16          **SECTION 16.** 41.41 (5) (e) of the statutes is amended to read:

17          41.41 (5) (e) Consult and cooperate with the department of agriculture, trade  
18          and consumer protection, the department of natural resources, the department of  
19          transportation, the department of commerce, the department of administration, the  
20          state historical society, the university of Wisconsin-extension, ~~the Winnebago tribe~~  
21          ~~and any other Indian tribe which~~ any federally recognized American Indian tribe or  
22          band in this state that appoints a liaison representative to the board regarding the  
23          management of the Kickapoo valley reserve.

24          **SECTION 17.** 41.41 (7) (a) of the statutes is amended to read:

